

REMARKS

Claims 1-5 and 7-15 were pending in the present application. In the Office Action mailed November 26, 2007, claims 1-5 and 7-15 were rejected and claims 3, 5, 8, 11-12 and 14-15 were objected to. In addition, the specification was objected to by the Examiner.

In this response, claim 2 has been deleted. New claim 16 has been added. Further, claims 1, 3, 5, 8, 10, 11, 12, 13, 14 and 15 have been amended. Finally, the specification has been amended. The Applicant respectfully traverses each of the objections and rejections and requests that the Examiner reconsider such objections and rejections in light of the amendments and the following arguments/comments.

OBJECTIONS TO THE SPECIFICATION

The Applicant has amended the specification of the present application to more appropriately refer to the trade names of TWEEN® 20 WATERLOCK ® A220. Accordingly, the Applicant submits that this objection should be withdrawn.

OBJECTIONS TO THE CLAIMS

In response to the objection of claim 3 based upon claim 2, the Applicant has cancelled claim 2. Furthermore, in response to the objections to claims 11-12 and 14-15, the Applicant has amended those claims to remove the informalities as indicated by the Examiner. Additionally, in response to the objection to claim 5, the Applicant has corrected the language in the claim, as requested by the Examiner. The Applicant has also deleted the “n” from the chemical structure of claim 5 and, thus, the number of subunits (“n”) is not a limitation of the claim. The Applicant has also amended claims 8 and 15 relative to the use of TWEEN® 20 and WATERLOCK ® A220 in the claims. Additionally, the Applicant has amended claims 1, 5, and 11 to correct the

pH limitation within the claims. Claim 10 has been amended to remove the objected to term “high.” Claims 3 and 12 have been amended to correct the problem addressed by the Examiner. Finally, claim 15 has been amended to correct the antecedent basis of “rehydrating agent.”

In light of the above amendments, the Applicant submits that all the informalities raised by the Examiner have been corrected, and therefore, the Applicant respectfully requests reconsideration of same and withdrawal of all objections.

CLAIM REJECTIONS

Claims 1, 4-5 and 7 were rejected under 35 U.S.C. 103 (a) as being unpatentable in view of Phipps (U.S. Pat. No. 5,553,971).

Claims 1-3 were rejected under 35 U.S.C. 103 (a) as being unpatentable in view of Phipps (U.S. Pat. No. 5,553,971) in further view of the Merck Index.

Claims 1-3 were rejected under 35 U.S.C. 103 (a) as being unpatentable in view of Phipps (U.S. Pat. No. 5,553,971) in further view of Parkinson (Pub. No. 2003/0023228).

Claims 1 and 8 were rejected under 35 U.S.C. 103 (a) as being unpatentable in view of Phipps (U.S. Pat. No. 5,553,971) in further view of Hsu et al. (Pub. No. 2003/0161870).

Claims 1 and 9 were rejected under 35 U.S.C. 103 (a) as being unpatentable in view of Phipps (U.S. Pat. No. 5,553,971) in further view of Parkinson (Pub. No. 2003/0023228).

Claim 10 was rejected under 35 U.S.C. 103 (a) as being unpatentable in view of Phipps (U.S. Pat. No. 5,553,971).

Claims 10-11 were rejected under 35 U.S.C. 103 (a) as being unpatentable in view of Phipps (U.S. Pat. No. 5,553,971) in further view of the Table of pKa and PI values for amino acids.

Claim 11 was rejected under 35 U.S.C. 103 (a) as being unpatentable in view of Phipps (U.S. Pat. No. 5,553,971).

Claims 10 and 12 were rejected under 35 U.S.C. 103 (a) as being unpatentable in view of Phipps (U.S. Pat. No. 5,553,971) in further view of the Merck Index.

Claims 10 and 13 were rejected under 35 U.S.C. 103 (a) as being unpatentable in view of Phipps (U.S. Pat. No. 5,553,971).

Claims 10 and 14 were rejected under 35 U.S.C. 103 (a) as being unpatentable in view of Phipps (U.S. Pat. No. 5,553,971).

Claims 10 and 15 were rejected under 35 U.S.C. 103 (a) as being unpatentable in view of Phipps (U.S. Pat. No. 5,553,971).

The Applicant respectfully traverses each of the above rejections and requests reconsideration and passage to allowance of all of such claims in light of the above amendments and the following comments.

Claims 1 and 10, the independent claims, have been amended to include as a limitation either “an amino acid” (claim 1) or “providing an amino acid” (claim 10). *See, supra*. This amendment is fully supported by the specification. *See, e.g.*, ¶¶ [0020] and [0021]. The Applicant submits that claims 1 and 10 are not anticipated nor obvious based upon the prior art of record.

Indeed, the Office Action expressly states that “[t]he teaching of Phipps do not explicitly describe the combination of acidic polycentric buffer and a basic amino acid...” OA page 11. Since Phipps does not disclose the combination of the claimed polymer (with pendant carboxylic acid moieties) combined with an amino acid, Phipps cannot anticipate the claims.

The Office Action states that because Phipps teaches using a polymetric buffer to reduce competition between buffer ions and medicament ions, it would be obvious to combine poly (methylvinyl ether-maleic acid) with a basic amino acid. *See*, O.A. page 11. The Applicant submits that Phipps does not render obvious the combination because Phipps actually teaches against the combination of a polymetric buffer with an amino acid.

The specification portion cited (col. 15 lines 7-17) teaches that using a polymetric buffer reduces competition between buffer ions and medicament ions. Specifically, the specification portion teaches that “[i]n those cases where competition from buffer ions/counterions must be minimized or eliminated, the buffer added to the anodic or cathodic reservoir is preferably polymetric.” Phipps col. 15 lines 7-9. Nothing in Phipps suggests using a polymetric buffer with an amino acid. In addition to the above, Phipps actually teaches that the use of acids can introduce undesirable “competing ions.” *See, e.g.*, Phipps col. 7 lines 21-46. Thus, Phipps teaches that using acids increases “competing ions.” Based upon Phipps, one of ordinary skill in the art would not combine a polymetric buffer with an amino acid, because, according to Phipps, the acids would provide “competing ions” and the reason for using a polymetric buffer (to minimize “competing ions”) would be frustrated. Therefore, Phipps teaches away from the claimed combination, and, using an acid (which increases “competing ions”) would frustrate the purpose of using the polymetric buffer (to minimize “competing ions”).

Thus, based upon the above, the Applicant submits that the present claims are not obvious in view of Phipps, and therefore, the Applicant submits that the claims are allowable.

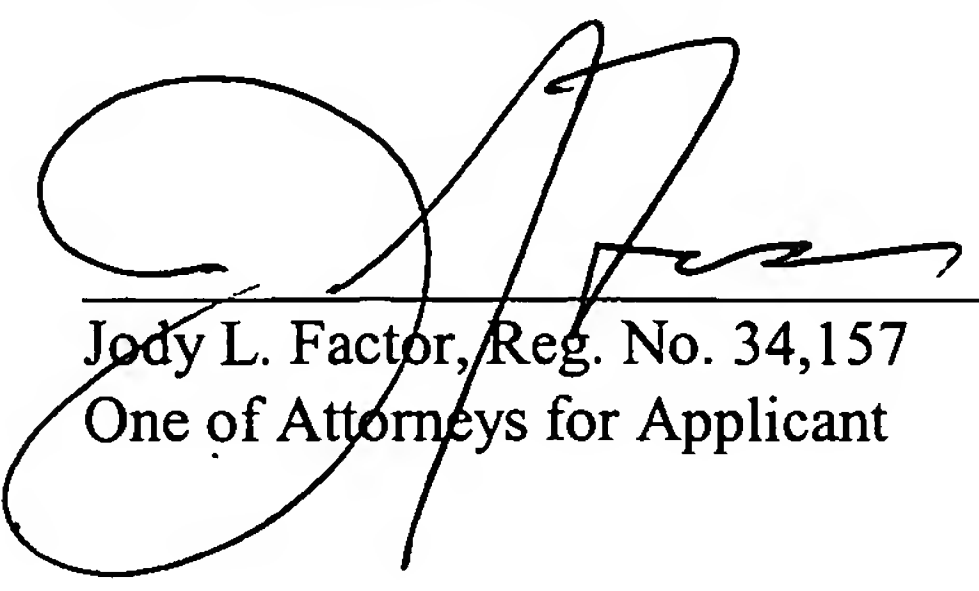
CONCLUSION

In view of the above remarks, the Applicant respectfully requests reconsideration of all rejections and objections, and passage to allowance of all the remaining claims.

Respectfully submitted,

FACTOR & LAKE, LTD.

Dated: May 27, 2008



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CERTIFICATE OF MAILING

I hereby certify that this RESPONSE TO OFFICE ACTION DATED NOVEMBER 26, 2007 is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop – Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 27, 2008.

Yolanda Solis

